



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4984/2021

Akash s/o Ramkrushna Madavi

...Versus...

Nazir s/o Nuruddin Nathani and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. A.S. Bhendarkar, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 13/10/2023

1. The petition challenges the order dated 22/09/2021 by which the application of the present petitioner/defendant for grant of permission to file written statement in a commercial suit after expiry of 120 days, as contemplated by the proviso to Order VIII Rule 1 of the Code of Civil Procedure, as applicable to Commercial Courts, on the ground of Covid-19 has been rejected holding that the Court has no power to extend the period of 120 days.

2. It is not in dispute that the summons was served on 22/03/2021 and the application for permission to file written statement was filed on 23/08/2021 which has been rejected by the impugned order dated 22/09/2021.

3. It is equally not be a disputed position that the statutes of limitation were suspended by the Hon'ble Apex Court in Suo Motu Writ Petition (C) No.3/2020 from 15/03/2020 till 28/02/2022, and the above period, is covered by this duration.

4. The matter has been considered by the Hon'ble Apex Court in *Prakash Corporates Vs. Dee Vee Projects limited (2022) 5 SCC 112*, which covers the position, considering which, the impugned order is hereby quashed and set aside and the application below Exh.12 stands allowed.

5. The writ petition is accordingly allowed in the above terms. No order as to costs.

(AVINASH G. GHAROTE, J.)

Deshmukh